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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,300	11/18/2003	Thomas D. Radcliff	965_021	6938
20874	7590	08/10/2005	EXAMINER NGUYEN, HOANG M	
WALL MARJAMA & BILINSKI 101 SOUTH SALINA STREET SUITE 400 SYRACUSE, NY 13202			ART UNIT 3748	PAPER NUMBER
DATE MAILED: 08/10/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/716,300	RADCLIFF ET AL.	
Examiner	Art Unit		
Hoang M. Nguyen	3748		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 June 2005.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1,2 and 9 is/are rejected.
7) Claim(s) 3-8 and 10-14 is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. ____.
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/24/05. 5) Notice of Informal Patent Application (PTO-152)
6) Other: ____.

Applicant's amendment dated June 24, 2005, has been fully considered.

Applicant's arguments that it would not have been obvious to combine the references are found persuasive and the 103 rejection has been withdrawn. However, after considering the references submitted with the PTO 1449 form, a new ground of rejection has been made as follows.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 9, are rejected under 35 U.S.C. 102(e) as being anticipated by US 2003/218385 (Bronicki).

Bronicki discloses an energy recovery system comprising a heat exchanger (58A, 22A, 60A) with two heat sources 22A, 60A, a turbine 66A, a condenser 70A, and circulating means 72A for receiving a liquid fluid and circulating it to said heat exchanger. In the event of failure of the primary power unit 16, a sensor 21 detects the loss of power and fuel is supplied to a secondary system containing the burner 56A, the heat exchanger 58A is adapted to transfer heat from two sources consisting in the heat contained in two hot fluids within the engine.

Claims 1-2, 9, are rejected under 35 U.S.C. 102(b) as being anticipated by DE 2639187 (Braus et al).

Braus et al discloses a diesel engine with a reciprocating piston transferring heat to an organic fluid (methanol), a vessel surrounding the engine, heat is transferred to the organic fluid to the friction of the piston caused by its movement and due to the combustion of the diesel engine fuel in the engine. The engine is therefore adapted to transfer heat from two sources to the fluid of the organic cycle.

Claims 3-8, 10-14, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3748

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Examiner Nguyen whose telephone number is (571) 272-4861. The examiner can normally be reached on Tuesday--Friday from 12:30 AM to 10:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion, can be reached on (571)-272-4859. The fax phone number for the Examiner is (703) 872-9306 for regular communication, and (703) 872-9303 for after final communication.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-3700.



A handwritten signature in black ink, appearing to read "HNG" followed by a date "08/06/05".

HOANG NGUYEN
PRIMARY EXAMINER
ART UNIT 3748

Hoang Minh Nguyen
8/6/05